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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VAN A. PENA, Ph.D., M.D.,

Plaintiff,

v.

TIMOTHY MEEKER, et al.,

Defendant.

C 00-04009 CW

UNOPPOSED REQUEST TO CONTINUE
THE TRIAL DATE UNTIL JULY 15, 2013

Current Trial Date: May 13, 2013

Requested Trial Date: July 15, 2013

NOW COMES PLAINTIFF VAN A. PENA and requests that this Court continue the current trial date of May 13, 2013 until July 15, 2013. The reason for this request is that Plaintiff's expert witness, Dr. Barry Ben-Zion, will be out of the country during the period the case is currently scheduled for trial. The parties have met and conferred and agreed, subject to the Court's approval, to a continuance of the trial until July 15, 2013.

In response to the Court's March 6, 2013 order declining the parties' prior stipulation, counsel provides the Court the following information.

1. Plaintiff's expert Barry Ben-Zion is not available to testify in this case during the May 13, 2013 trial because he will be attending a professional conference in Europe. This is an annual conference that Dr. Ben-Zion attends every year and he made his travel plans months before the May 13, 2013 trial date was agreed to by counsel during the last Case Management

1 Conference. Plaintiff's counsel asked Dr. Ben-Zion if there was any way he could change his
2 travel plans so he could testify during the trial scheduled to begin May 13th. He could not.

3 2. Once Plaintiff's counsel discovered that Dr. Ben-Zion was unavailable, he contacted
4 the Court's staff to find out what other dates the Court potentially had available, then contacted
5 opposing counsel to meet & confer about the possibility of stipulating to a continuance to one of
6 the dates the Court had potentially available. Counsel exchanged several phone calls trying to
7 find dates that the parties, witnesses and counsel could all be available. It was ultimately
8 determined that that none of the dates the Court's staff had indicated the Court might be available
9 would work until November, 2013, due to conflicts among the various parties' counsels' and
10 witness' schedules.

11 3. After the Court issued its order declining the parties' prior stipulation to continue the
12 trial until November, 2013, counsel met and conferred again and one of Defendants' counsel
13 graciously agreed to reschedule a vacation to be available the second half of July. Plaintiff,
14 Plaintiff's counsel and Dr. Ben-Zion are also available the second half of July.

15 4. The parties did not video-tape the expert witnesses' depositions, so presenting their
16 testimony by video at trial was not an option.

17 5. Since the last Case Management Conference, the parties participated in a mediation
18 with Magistrate LaPorte. Although the parties exchanged substantial new settlement proposals
19 during the mediation, the case has not settled. After the mediation, Magistrate LaPorte contacted
20 counsel for each side to further discuss the possibility of settling the case. Judge Laporte
21 expressed to Plaintiff's counsel an interest in conducting an additional mediation session when
22 she returns from surgery. Plaintiff is willing to participate in an additional mediation session with
23 Magistrate LaPorte. Granting this request would enable provide the parties the time to do so.

24 6. Defendant's counsel has authorized Plaintiff's counsel to represent to the Court that

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1 Defendant does not oppose this request

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3 RESPECTULLY SUBMITTED.

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5 Dated: March 15, 2013

PLAINTIFF VAN A. PENA, Ph.D., M.D

6
7 /s/ Lawrence King
8 LAWRENCE J. KING
9 *Attorneys for Plaintiff*
10 *Van A. Pena*

11 **~~PROPOSED~~ ORDER**

12 Having reviewed the Plaintiff's unopposed request for a trial continuance and finding
13 good cause therefore, IT IS HEREBY ORDERED that the trial in this matter shall be continued
14 until July 18, 2013. The Pretrial Conference shall be held on June 26, 2013.

15 IT IS SO ORDER.

16 March 18, 2013

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18 The Honorable Claudia Wilken
19 United States District Judge
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cc: EDL